



OFFICE OF THE POLICE COMMISSIONER

ONE POLICE PLAZA • ROOM 1400

April 9, 2010

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Christopher Lee**
Tax Registry No. 930549
Manhattan Court Section
Disciplinary Case Nos. 83260/07, 83902/08 & 84735/08

The above named member of the service appeared before Assistant Deputy Commissioner Robert W. Vinal on August 11, 2009 and was charged with the following:

DISCIPLINARY CASE NO. 83260/07

1. Said Police Officer Christopher Lee, while acting in concert with Police Officer Philip Ditto, Tax #932557, while assigned to the 71 Precinct, on April 18, 2006, at approximately 1943 hours, while on duty in Kings County, engaged in conduct prejudicial to the good order, efficiency and discipline of the Department in that he engaged in a vehicle pursuit of a motorcyclist without notifying the radio dispatcher at the start of the pursuit, as required.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT/PROHIBITED
CONTACT GENERAL REGULATIONS
VEHICLE PURSUITS**

P.G. 212-39, Page 1, Paragraphs 3-8

2. Said Police Officer Christopher Lee, while acting in concert with Police Officer Philip Ditto, Tax #932557, while assigned to the 71 Precinct, on July 7, 2006, at approximately 1906 hours, while on duty in Kings County, engaged in conduct prejudicial to the good order, efficiency and discipline of the Department in that he engaged in a vehicle pursuit of a motorcyclist without notifying the radio dispatcher at the start of the pursuit, as required.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT/PROHIBITED
CONTACT GENERAL REGULATIONS
VEHICLE PURSUITS**

P.G. 212-39, Page 1, Paragraph 3

3. Said Police Officer Christopher Lee, while acting in concert with Police Officer Philip Ditto, Tax #932557, while assigned to the 71 Precinct, on July 8, 2006, at approximately 2025 hours, while on duty in Kings County, engaged in conduct prejudicial to the good order, efficiency and discipline of the Department in that he engaged in a vehicle pursuit of a motorcyclist without notifying the radio dispatcher at the start of the pursuit, as required.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT/PROHIBITED
CONTACT
VEHICLE PURSUITS**

P.G. 212-39, Page 1, Paragraph 3

POLICE OFFICER CHRISTOPHER LEE
DISCIPLINARY CASE NOS. 83260/07; 83902/08; 84735/08

4. Said Police Officer Christopher Lee, while acting in concert with Police Officer Philip Ditto, Tax #932557, while assigned to the 71 Precinct, on July 9, 2006, at approximately 0135 hours, while on duty in Kings County, engaged in conduct prejudicial to the good order, efficiency and discipline of the Department in that he engaged in a vehicle pursuit of a motorcyclist without notifying the radio dispatcher at the start of the pursuit, as required.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT/PROHIBITED
CONTACT**

P.G. 212-39, Page 1, Paragraph 3

VEHICLE PURSUITS

5. Said Police Officer Christopher Lee, while acting in concert with Police Officer Philip Ditto, Tax #932557, while assigned to the 71 Precinct, on April 18, 2006, at approximately 1943 hours, while on duty in Kings County, engaged in conduct prejudicial to the good order, efficiency and discipline of the Department in that he failed to terminate a vehicle pursuit of a motorcyclist when the risk to uniformed members of the service and the public outweighed the danger to the community if the motorcyclist was not immediately apprehended, to wit: said officer pursued a speeding motorcyclist by driving on a sidewalk for approximately one block when the pursuit of the motorcyclist was initiated as a result of a traffic violation.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT/PROHIBITED
CONTACT**

P.G. 212-39, Page 1, Paragraph 2 and Note

VEHICLE PURSUITS

6. Said Police Officer Christopher Lee, while acting in concert with Police Officer Philip Ditto, Tax #932557, while assigned to the 71 Precinct, on July 7, 2006, at approximately 1906 hours, while on duty in Kings County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that he failed to terminate a vehicle pursuit of a motorcyclist when the risk to uniformed members of the service and the public outweighed the danger to the community if the motorcyclist was not immediately apprehended, to wit: said officer pursued a speeding motorcyclist by driving through five steady red lights and two stop signs when the pursuit of the motorcyclist was initiated as a result of a traffic violation.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT/PROHIBITED
CONTACT**

P.G. 212-39, Page 1, Paragraph 2 and Note

VEHICLE PURSUITS

POLICE OFFICER CHRISTOPHER LEE
DISCIPLINARY CASE NOS. 83260/07; 83902/08; 84735/08

7. Said Police Officer Christopher Lee, while acting in concert with Police Officer Philip Ditto, Tax #932557, while assigned to the 71 Precinct, on July 8, 2006, at approximately 2025 hours, while on duty in Kings County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that he failed to terminate a vehicle pursuit of a motorcyclist when the risk to uniformed members of the service and the public outweighed the danger to the community if the motorcyclist was not immediately apprehended, to wit: with a civilian individual riding as a passenger in his radio motor patrol car, said officer pursued a speeding motorcyclist by driving through two steady red lights for five blocks down the wrong way on a one-way street when the pursuit of the motorcyclist was initiated as a result of a traffic violation.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT/PROHIBITED
CONTACT
VEHICLE PURSUITS**

P.G. 212-39, Page 1, Paragraph 2 and Note

8. Said Police Officer Christopher Lee, while acting in concert with Police Officer Philip Ditto, Tax #932557, while assigned to the 71 Precinct, on July 9, 2006, at approximately 0135 hours, while on duty in Kings County, engaged in conduct prejudicial to the good order, efficiency and discipline of the Department in that he failed to terminate a vehicle pursuit of a motorcyclist when the risk to uniformed members of the service and the public outweighed the danger to the community when the pursuit of the motorcyclist was initiated as a result of a traffic violation.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT/PROHIBITED
CONTACT
VEHICLE PURSUITS**

9. Said Police Officer Christopher Lee, while acting in concert with Police Officer Philip Ditto, Tax #932557, while assigned to the 71 Precinct, on July 9, 2006, at approximately 0135 hours, while on duty in Kings County, engaged in conduct prejudicial to the good order, efficiency and discipline of the Department in that said officer improperly operated his motor vehicle outside of his assigned command.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT/PROHIBITED
CONTACT GENERAL REGULATION
RADIO MOTOR PATROL OPERATOR**

DISCIPLINARY CASE NO. 83902/08

1. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on or about December 30, 2006, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said Police Officer did state to another member of the service, "All blacks should be hung from trees like monkeys." (As amended).

P.G. 203-10, Page 1, Paragraph 5

PROHIBITED CONDUCT

POLICE OFFICER CHRISTOPHER LEE
DISCIPLINARY CASE NOS. 83260/07; 83902/08; 84735/08

2. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on December 31, 2006, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said Police Officer did state to another member of the service, "All blacks should be hung from trees like monkeys." (As amended).

P.G. 203-10, Page 1, Paragraph 5

PROHIBITED CONDUCT

3. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on January 15, 2007, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said Police Officer did state to another member of the service, "Today is dark day," in reference to the holiday marking Dr. Martin Luther King, Jr.'s birthday. (As amended).

P.G. 203-10, Page 1, Paragraph 5

PROHIBITED CONDUCT

DISCIPLINARY CASE NO. 84735/08

1. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on February 29, 2008, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said Officer, while attempting to forcefully remove keys from the hand of Police Attendant Cheryl Williamson, did grab her hand and clothing and repeatedly demanded that she give him the keys. (As amended)

P.G. 203-10, Page 1, Paragraph 5

PROHIBITED CONDUCT

2. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on February 29, 2008, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said Officer, did engage in a verbal dispute with Police Attendant Cheryl Williamson during which he used abusive language toward her. (As amended)

P.G. 203-10, Page 1, Paragraph 5

PROHIBITED CONDUCT

3. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on or about February 29, 2008, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: during the transport of a prisoner in his custody from a courtroom to a holding cell at the above location, said Officer failed to properly handcuff said prisoner, as required.

P.G. 203-10, Page 1, Paragraph 5

GENERAL REGULATIONS

POLICE OFFICER CHRISTOPHER LEE
DISCIPLINARY CASE NOS. 83260/07; 83902/08; 84735/08

4. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on February 29, 2008, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Officer failed to properly safeguard a prisoner that was in his custody for several minutes resulting in said prisoner's attempt to walk away from said Officer.

P.G. 203-10, Page 1, Paragraph 5

GENERAL REGULATIONS

5. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on February 29, 2008, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Officer forcefully shoved a prisoner that was in his custody into a holding cell. (As amended)

P.G. 203-10, Page 1, Paragraph 5

GENERAL REGULATIONS

6. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on April 11, 2008, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: during the transport of a prisoner in his custody from a courtroom to a holding cell at the above location, said Officer failed to properly handcuff said prisoner, as required.

P.G. 203-10, Page 1, Paragraph 5

GENERAL REGULATIONS

7. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on April 11, 2008, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: during the transport of a prisoner in his custody from a courtroom to a holding cell at the above location, said Officer failed to properly handcuff said prisoner, as required.

P.G. 203-10, Page 1, Paragraph 5

GENERAL REGULATIONS

8. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on April 11, 2008, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Officer forcefully shoved a prisoner who was in his custody into a wall causing said prisoner to sustain a laceration and swelling to her lip.

P.G. 203-10, Page 1, Paragraph 5

GENERAL REGULATIONS

9. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on April 11, 2008, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that after forcefully shoving a prisoner who was in his custody said Officer grabbed said prisoner by the neck to keep her from falling and accidentally struck her in the right eye causing her eye to swell.

P.G. 203-10, Page 1, Paragraph 5

GENERAL REGULATIONS

POLICE OFFICER CHRISTOPHER LEE
DISCIPLINARY CASE NOS. 83260/07; 83902/08; 84735/08

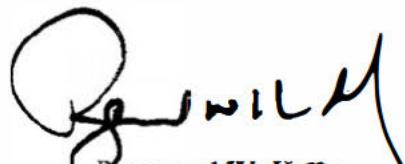
In a Memorandum dated January 20, 2010, Assistant Deputy Commissioner Vinal found the Respondent GUILTY of all Specifications in Disciplinary Case No. 83260/07; GUILTY of all Specifications in Disciplinary Case No. 83902/08; and GUILTY of Specification No. 2, Not Guilty of Specification Nos. 1,4,5,6,8,9 and Dismissed Specification No. 3 in Disciplinary Case No. 84735/08.

Having read the Memorandum and analyzed the facts of these separate matters, I approve the findings, but disapprove the recommended penalty of summary dismissal from the Department.

By virtue of the nature and conglomeration of these varied and separate acts of misconduct, it is evident that the Respondent inherently lacks a level of professionalism, discipline, and common-sense necessary for him to effectively perform his duties as a New York City police officer. As such, I agree that Respondent Lee's immediate separation from the Department is required.

However, I will permit an alternative manner of separation from the Department at this time. It is therefore directed that a post-trial vested-interest retirement agreement be implemented with the Respondent. In consideration of such, Respondent Lee is to remain, and to separate from the Department, on a continued suspended duty status. The Respondent is to also forfeit all suspension days (*with and without pay*) since served and to be served, including all accrued leave/time balances, and will immediately be placed on a One-Year Dismissal Probation period.

Such vested-interest retirement shall also include Respondent Lee's written agreement to not initiate administrative applications or judicial proceedings against the New York City Police Department to seek reinstatement or return to the Department. If Respondent Lee does not agree to the terms of this vested-interest retirement as noted, this Office is to be notified without delay. This agreement is to be implemented **IMMEDIATELY.**



Raymond W. Kelly
Police Commissioner



POLICE DEPARTMENT

In the Matter of the Disciplinary Proceedings : X

- against - : FINAL

Police Officer Christopher Lee : ORDER

Tax Registry No. 930549 : OF

Manhattan Court Section : DISMISSAL X

Police Officer Christopher Lee, Tax Registry No. 930549, Shield No. 12634, Social Security No. ending in [REDACTED], having been served with written notice, has been tried on written Charges and Specifications numbered 83260/07 as set forth on form P.D. 468-121, dated August 20, 2007, and written Charges and Specifications numbered 83902/08 as set forth on form P.D. 468-121, dated April 3, 2009, and written Charges and Specifications numbered 84735/08 as set forth on form P.D. 468-121, dated April 3, 2009, and after a review of the entire record, has been found Guilty.

Now therefore, pursuant to the powers vested in me by Section 14 115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Christopher Lee from the Police Service of the City of New York.

RAYMOND W. KELLY
POLICE COMMISSIONER

EFFECTIVE:



POLICE DEPARTMENT

January 20, 2010

In the Matter of the Charges and Specifications : Case Nos. 83260/07,
83902/08 & 84735/08

- against - :

Police Officer Christopher Lee :

Tax Registry No. 930549 :

Manhattan Court Section :

At: Police Headquarters
 One Police Plaza
 New York, New York 10038

Before: Honorable Robert W. Vinal
 Assistant Deputy Commissioner - Trials

A P P E A R A N C E:

For the Department: Beth Douglas, Esq.
 Department Advocate's Office
 One Police Plaza
 New York, New York 10038

For the Respondent: Philip J. Smallman, Esq.
 32 Court St., Suite 1702
 Brooklyn, NY 11201-4440

To:

HONORABLE RAYMOND W. KELLY
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NEW YORK 10038

COURTESY • PROFESSIONALISM • RESPECT

The above-named member of the Department appeared before me on August 11, 13 and 17, 2009, and September 8 and 10, 2009, charged with the following:

Disciplinary Case No. 83260/07

1. Said Police Officer Christopher Lee, while acting in concert with Police Officer Philip Ditto, Tax # 932557, while assigned to the 71 Precinct, on April 18, 2006, at approximately 1943 hours, while on duty in Kings County, engaged in conduct prejudicial to the good order, efficiency and discipline of the Department in that he engaged in a vehicle pursuit of a motorcyclist without notifying the radio dispatcher at the start of the pursuit, as required.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT/ PROHIBITED
CONTACT GENERAL REGULATIONS

P.G. 212-39, Page 1, Paragraphs 3-8 – VEHICLE PURSUITS

2. Said Police Officer Christopher Lee, while acting in concert with Police Officer Philip Ditto, Tax # 932557, while assigned to the 71 Precinct, on July 7, 2006, at approximately 1906 hours, while on duty in Kings County, engaged in conduct prejudicial to the good order, efficiency and discipline of the Department in that he engaged in a vehicle pursuit of a motorcyclist without notifying the radio dispatcher at the start of the pursuit, as required.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT/ PROHIBITED
CONTACT GENERAL REGULATIONS

P.G. 212-39, Page 1, Paragraph 3 – VEHICLE PURSUITS

3. Said Police Officer Christopher Lee, while acting in concert with Police Officer Philip Ditto, Tax # 932557, while assigned to the 71 Precinct, on July 8, 2006, at approximately 2025 hours, while on duty in Kings County, engaged in conduct prejudicial to the good order, efficiency and discipline of the Department in that he engaged in a vehicle pursuit of a motorcyclist without notifying the radio dispatcher at the start of the pursuit, as required.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT/ PROHIBITED
CONTACT

P.G. 212-39, Page 1, Paragraph 3 – VEHICLE PURSUITS

4. Said Police Officer Christopher Lee, while acting in concert with Police Officer Philip Ditto, Tax # 932557, while assigned to the 71 Precinct, on July 9, 2006, at approximately 0135 hours, while on duty in Kings County, engaged in conduct prejudicial to the good order, efficiency and discipline of the Department in that he engaged in a vehicle pursuit of a motorcyclist without notifying the radio dispatcher at the start of the pursuit, as required.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT/ PROHIBITED

CONTACT

P.G. 212-29, Page 1, Paragraph 3 – VEHICLE PURSUITS

5. Said Police Officer Christopher Lee, while acting in concert with Police Officer Philip Ditto, Tax # 932557, while assigned to the 71 Precinct, on April 18, 2006, at approximately 1943 hours, while on duty in Kings County, engaged in conduct prejudicial to the good order, efficiency and discipline of the Department in that he failed to terminate a vehicle pursuit of a motorcyclist when the risk to uniformed members of the service and the public outweighed the danger to the community if the motorcyclist was not immediately apprehended, to wit: said officer pursued a speeding motorcyclist by driving on a sidewalk for approximately one block when the pursuit of the motorcyclist was initiated as a result of a traffic violation.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT/ PROHIBITED

CONTACT

P.G. 212-39, Page 1, Paragraph 2 and Note – VEHICLE PURSUITS

6. Said Police Officer Christopher Lee, while acting in concert with Police Officer Philip Ditto, Tax # 932557, while assigned to the 71 Precinct, on July 7, 2006, at approximately 1906 hours, while on duty in Kings County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that he failed to terminate a vehicle pursuit of a motorcyclist when the risk to uniformed members of service and the public outweighed the danger to the community if the motorcyclist was not immediately apprehended, to wit: said officer pursued a speeding motorcyclist by driving through five steady red lights and two stop signs when the pursuit of the motorcyclist was initiated as a result of a traffic violation.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT/ PROHIBITED

CONTACT

P.G. 212-39, Page 1, Paragraph 2 and Note – VEHICLE PURSUIT

7. Said Police Officer Christopher Lee, while acting in concert with Police Officer Philip Ditto, Tax # 932557, while assigned to the 71 Precinct, on July 8, 2006, at approximately 2025 hours, while on duty in Kings County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that he failed to terminate a vehicle pursuit of a motorcyclist when the risk to uniformed members of the service and the public outweighed the danger to the community if the motorcyclist was not immediately apprehended, to wit: with a civilian individual riding as a passenger in his radio motor patrol car, said officer pursued a speeding motorcyclist by driving through two steady red lights for five blocks down the wrong way on a one-way street when the pursuit of the motorcyclist was initiated as a result of a traffic violation.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT/ PROHIBITED
CONTACT

P.G. 212-39, Page 1, Paragraph 2 and Note – VEHICLE PURSUIT

8. Said Police Officer Christopher Lee, while acting in concert with Police Officer Philip Ditto, Tax # 932557, while assigned to the 71 Precinct, on July 9, 2006, at approximately 0135 hours, while on duty in Kings County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that he failed to terminate a vehicle pursuit of a motorcyclist when the risk to uniformed members of the service and the public outweighed the danger to the community when the pursuit of the motorcyclist was initiated as a result of a traffic violation.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT/ PROHIBITED
CONTACT

P.G. 212-39, Page 1, Paragraph 2 and Note – VEHICLE PURSUIT

9. Said Police Officer Christopher Lee, while acting in concert with Police Officer Philip Ditto, Tax # 932557, while assigned to the 71 Precinct, on July 9, 2006, at approximately 0135 hours, while on duty in Kings County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that said officer improperly operated his motor vehicle outside of his assigned command.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT/ PROHIBITED
CONTACT GENERAL REGULATION

P.G. 202-22, Page 2, Paragraph 12 – RADIO MOTOR PATROL OPERATOR

Disciplinary Case No. 83902/08

1. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on or about December 30, 2006, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said Police Officer did state to another member of the service, “All blacks should be hung from trees like monkeys.”
(As amended)

P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

2. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on December 31, 2006, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said Police Officer did state to another member of the service, “All blacks should be hung from trees like monkeys.”
(As amended).

P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

3. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on January 15, 2007, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department wit: said Police Officer did state to another member of the service, "Today is dark day," in reference to the holiday marking Dr. Martin Luther King, Jr.'s birthday. *(As amended)*

P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

Disciplinary Case No. 84735/08

1. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on February 29, 2008, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said Officer, while attempting to forcefully remove keys from the hand of Police Attendant Cheryl Williamson, did grab her hand and clothing and repeatedly demanded that she give him the keys. *(As amended)*

P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

2. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on February 29, 2008, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said Officer did engage in a verbal dispute with Police Attendant Cheryl Williamson during which he used abusive language towards her. *(As amended)*

P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

3. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on or about February 29, 2008, engaged in conduct prejudicial to the good order efficiency or discipline of the Department to wit: during the transport of a prisoner in his custody from a courtroom to a holding cell at the above location, said Officer failed to properly handcuff said prisoner, as required.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

4. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on February 29, 2008, engaged in conduct prejudicial to the good order efficiency or discipline of the Department in that said Officer failed to properly safeguard a prisoner that was in his custody for several minutes resulting in said prisoner's attempt to walk away from said Officer.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

5. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on February 29, 2008, engaged in conduct prejudicial to the good order

efficiency or discipline of the Department in that said Officer forcefully shoved a prisoner that was in his custody into a holding cell. (*As amended*)

P.G. 203–10, Page 1, Paragraph 5 – GENERAL REGULATIONS

6. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on April 11, 2008, engaged in conduct prejudicial to the good order efficiency or discipline of the Department to wit: during the transport of a prisoner in his custody from a courtroom to a holding cell at the above location, said Officer failed to properly handcuff said prisoner, as required.

P.G. 203–10, Page 1, Paragraph 5 – GENERAL REGULATIONS

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P.G. 203–10, Page 1, Paragraph 5 – GENERAL REGULATIONS

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P.G. 203–10, Page 1, Paragraph 5 – GENERAL REGULATIONS

9. Said Police Officer Christopher Lee, assigned to Manhattan Court Section, while on duty, on April 11, 2008, engaged in conduct prejudicial to the good order efficiency or discipline of the Department in that after forcefully shoving a prisoner who was in his custody said Officer grabbed said prisoner by the neck to keep her from falling and accidentally struck her in the right eye causing her eye to swell.

P.G. 203–10, Page 1, Paragraph 5 – GENERAL REGULATIONS

The Respondent, through his counsel, entered a plea of Guilty to all of the subject charges under Disciplinary Case No. 83260/07 and a plea of Not Guilty to the remaining charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Disciplinary Case No. 83260/07

The Respondent, having pleaded Guilty, is found Guilty.

Disciplinary Case No. 83902/08

The Respondent is found Guilty.

Disciplinary Case No. 84735/08

The Respondent is found Guilty of Specification No. 2. The Respondent is found Not Guilty of Specification Nos. 1, 4, 5, 6, 8 and 9. It is recommended that Specification No. 3 be Dismissed. The Department moved to Dismiss Specification No. 7.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Sergeant Joseph Reda, Detective David McCarthy, Police Attendant Cheryl Williamson, Police Officer Ivan Rivera, Sergeant Aida Lagoa, Police Officer Andy Mahabir, Police Officer Robert Oviedo, and Captain James Winslow as witnesses.

Sergeant Joseph Reda

Sergeant Joseph Reda, who is assigned to Internal Affairs Bureau (IAB) Group 32, testified that when he took over the investigation regarding the Respondent's on duty driving of Radio Motor Patrol car (RMP) 1474, the IAB investigator who was previously assigned to this case had already obtained the dashboard camera video tapes which memorialized the Respondent's driving of the RMP on July 7 and 8, 2006. Reda went to

the 71 Precinct and personally retrieved the dashboard camera video tape memorializing the Respondent's driving on April 18, 2006.

The dashboard camera video tapes for all three of these dates were admitted into evidence as Department's Exhibit (DX) 1 [These video recordings depict the Respondent driving on a sidewalk on April 18, 2006; driving through five steady red lights and two stop signs on July 7, 2006; and driving through two steady red lights as he drove the wrong way on a one-way street for five blocks on July 8, 2006.]

Reda conducted official Department interviews of the Respondent and his partner, Police Officer Philip Ditto, who was assigned as the recorder in their RMP. They both admitted that on July 9, 2006, at about 0135 hours, they had failed to terminate their pursuit of a motorcyclist where the pursuit of the motorcyclist was initiated as a result of a traffic violation. They further admitted that they had made no radio transmissions regarding these pursuits. Reda conducted an interview of [REDACTED] who stated that on July 8, 2006, she was sitting in the rear passenger seat when the Respondent pursued a motorcyclist. Reda determined that when the Respondent pursued a motorcyclist on July 9, 2006, he drove out of his assigned command, the 71 Precinct, and drove into the 77, 78 and 79 Precincts.

On cross-examination, Reda acknowledged that he never interviewed the commanding officer (CO) of the 71 Precinct. When Reda was asked if the Respondent and Ditto had been told by the CO of the 71 Precinct to watch out for speeding motorcycles, he answered, "I believe they were." [REDACTED] confirmed to Reda that she was an approved civilian ride-along. Reda acknowledged that it was never established that the Respondent's RMP had ever hit a motorcycle during any pursuit.

Detective David McCarthy

Detective David McCarthy, assigned to the Highway Accident Investigation Squad, testified that he has been deemed an expert witness expert regarding determining vehicular speed on two occasions while testifying in New York Supreme Court.

McCarthy testified that he examined the dashboard camera video tapes in evidence (DX 1). He also went to the streets the RMP had passed and measured the distances between the blocks. He testified that he determined that the speed limit for these streets is 30 miles per hour (m.p.h.). By comparing his measurements to the time line on the video recordings, McCarthy determined that on April 18, 2006, the Respondent was driving his RMP at a top speed of 49.5 m.p.h.; that on July 7, 2006, the Respondent drove at a top speed of over 66 m.p.h.; and that on July, 8, 2006; the Respondent drove at a top speed of 50.42 m.p.h.

On cross-examination, McCarthy acknowledged that he never inspected the dashboard camera on the RMP and that he conducted no interviews.

Police Attendant Cheryl Williamson

Police Attendant Cheryl Williamson, assigned to at Manhattan Court Section (MCS), recalled that she was on duty on February 29, 2008, when the Respondent brought a prisoner named [REDACTED] into the MCS holding area and demanded that she give him the key to the holding cell. Williamson testified that it is her job to maintain custody of the keys which lock and unlock the holding cells. She told the Respondent, "No. He's a commit. He has to go upstairs," to the Department of Correction. As she was holding the cell keys in her left hand, the Respondent grabbed

her left wrist and tried to remove the keys from her hand. Williamson told him, "I'm not going to give you the keys." He told her, "Give me the fucking keys."

On cross-examination, Williamson denied that she had told the Respondent, "I'm not giving you the fucking keys." She testified that she used no profanity at all in addressing the Respondent.

Police Officer Ivan Rivera

Police Officer Ivan Rivera, assigned to MCS, recalled that he was on duty assigned as the intake officer on February 29, 2008, when the Respondent brought a prisoner into the MCS holding area.

Rivera heard the Respondent demand that Williamson give him "the fucking keys" to the holding cell. Williamson told the Respondent, "You give me the fucking keys." The Respondent then grabbed the keys out of the desk drawer where they were stored. Williamson then tried to snatch the keys back from the Respondent. Rivera moved to a position where he was standing behind the Respondent and in front of the prisoner, who was sitting in a chair. The Respondent opened a holding cell, grabbed the prisoner by his upper arms and put him into the cell as the prisoner exclaimed, "Don't hit me! Don't push me!"

On cross-examination, Rivera confirmed that the prisoner remained seated in the chair and never stood up. Rivera identified four photographs as the MCS desk area and cell area [Respondent's Exhibit (RX) A-D].

Sergeant Aida Lagoa

Sergeant Aida Lagoa, assigned to Patrol Borough Manhattan South Investigations Unit, recalled that on April 12, 2008, she was present during a tape-recorded interview (DX 3) of [REDACTED] who had complained that a police officer had shoved her into a wall and accidentally struck her in the eye. Lagoa saw that [REDACTED]'s right eye was swollen and that she had a laceration on her lip. Four photos were taken of [REDACTED]'s facial injuries (DX 2) [the photos are dated April 12, 2008 and depict the injuries to [REDACTED]'s face described by Lagoa]. It was determined that the Respondent must have been the police officer who [REDACTED] was referring to because the Respondent's "post" was to escort prisoners between the courtroom and MCS and because he met the general description [REDACTED] provided regarding the police officer.

On cross-examination, Lagoa testified that [REDACTED] appeared to be under the influence of some type of non-alcoholic substance. Lagoa examined [REDACTED]'s "rap sheet" which showed that [REDACTED] had been arrested a total of 35 times. No lineup or photographic identification procedure was conducted to see if [REDACTED] could identify the Respondent as the person who had shoved her into a wall and accidentally struck her in the eye.

Police Officer Andy Mahabir

Police Officer Andy Mahabir, who is assigned to the 44 Precinct, testified that on December 30, 2007, he was looking at a newspaper photo of a child who had been shot. The Respondent told him, "Black people should look like this." Mahabir responded, "You need some help dude." The Respondent repeated, "Black people should look like

this.” The Respondent then told him, “Black people should be hung from trees like monkeys.” On December 31, 2007, while they were inside the locker room, the Respondent twice repeated that, “Black people should be hung from trees like monkeys.” Mahabir testified that he was offended by the Respondent’s remarks because his wife is African-American and, as a result, his son is “half black.” Mahabir decided to approach a supervisor and request a change of assignment so that he would not have to listen to the Respondent making such remarks. After Mahabir told the supervisor what the Respondent had said, the supervisor told Mahabir that, under Department EEO regulations, he was required to report the Respondent’s racially offensive remarks to the Department’s Office of Equal Employment Opportunity (OEOO).

On cross-examination, Mahabir agreed that the Respondent’s remarks were not made maliciously, that the Respondent has been a guest at his home, and that he told the supervisor that he did not want to file a complaint against the Respondent.

Police Officer Robert Oviedo

Police Officer Robert Oviedo testified that while he and the Respondent were on duty, inside a courtroom waiting for arraignments to start on January 15, 2007, he remarked to the Respondent, “Today is MLK day.” The Respondent then told Oviedo, who was looking at the newspaper, “Today’s going to be a dark day.” Oviedo testified that he was personally offended by the Respondent’s remark and that defendants who were standing nearby, waiting to be arraigned, reacted to his remark by looking over at them. When Oviedo saw this, he elbowed the Respondent’s arm as a silent message that he should try to avoid getting the defendants “riled up.”

Captain James Winslow

Captain James Winslow, assigned as Commanding Officer, Manhattan Court Section, testified that “ideally special prisoners would be” handcuffed or in a “daisy chain” when they are transported between the courtroom and MCS holding cells. Special prisoners are always males because MCS personnel “do not watch female special prisoners.” When he was asked what procedure must be followed by an officer assigned to MCS when a judge orders the officer to remove a disruptive prisoner from a courtroom, he responded that “the procedure is fluid” and depends upon how many prisoners are being lodged and where they are being lodged. He noted that MCS logs indicate what officer transported a certain prisoner.

On cross-examination, Winslow agreed that practice and protocol varies from shift to shift at MCS.

The Respondent’s Case

The Respondent called Correction Officer Marie Gallardo, Lieutenants Donald Solt, Rodney Pitt and Darrell Cox, and Sergeant Leonard Sanders as witnesses and he testified in his own behalf.

Correction Officer Marie Gallardo

New York City Correction Officer Marie Gallardo testified that she was assigned to Manhattan arraignments on April 11, 2008, and that she saw the Respondent escort a

black female who (after viewing DX 2) she identified as [REDACTED]. She saw no injuries to [REDACTED] and [REDACTED] made no complaint about the Respondent.

Lieutenant Donald Solt

Lieutenant Donald Solt testified that he was assigned to MCS as a supervisor and that he was on duty on February 29, 2008. Williamson told him that the Respondent "wanted the keys" but that she "refused to give him the keys." Williamson did not tell him that she wanted to file a complaint against the Respondent.

Lieutenant Rodney Pitt

Lieutenant Rodney Pitt testified that he was assigned to MCS as a supervisor and that he signed off on the Respondent's 2006, 2007 and 2008 performance evaluations (RX E). He testified that prisoners are not routinely handcuffed if the prisoner complies with an officer's directions.

Lieutenant Darrell Cox

Lieutenant Darrell Cox interviewed [REDACTED] on March 4, 2008, regarding the incident on February 29, 2008, between Williamson and the Respondent. Cox recalled that [REDACTED] stated that he suffers from "Turret's" and that he asked the Respondent not to hit him. [REDACTED] did not allege that the Respondent had hit him.

Sergeant Leonard Sanders

Sergeant Leonard Sanders, intake area supervisor at MCS, testified that on February 29, 2008, he learned that there had just been an argument between Williamson and the Respondent. When he asked Williamson what had happened, she told him that the Respondent had demanded the cell key but that she would not give him the key. Williamson did not tell him that there had been any physical contact during the dispute and she did not say that she wanted to file a complaint against the Respondent.

The Respondent

With regard to Disciplinary Case No. 83260/07, the Respondent testified that in 2004 when he was assigned to patrol duties at the 71 Precinct, his CO asked him if he wanted to be assigned as the precinct's highway safety officer and he agreed to perform this assignment. He testified that at that time his mind-set was on "enjoying" being a police officer. He also believed that "on every detail you do have to get numbers. It's all about volume and what not" because "the precinct has to get numbers" for "Traffic Stat." He was told to place special emphasis on trying to apprehend motorcyclists who had generated community complaints by noisily speeding through the streets during the early morning hours. The Respondent personally "conferred with the district attorney's office" and he voluntarily agreed to have a video recording camera installed on the dashboard of his RMP.

He recalled that when he was a boy, his mother was "hit head on by a DWI driver" and that consequently she was "in a coma for about a month and as of today she

acts like she's five years old." He still provides care for her. The Respondent testified that he will never again drive an RMP in the manner of his three pursuits that were recorded by the dashboard camera (DX 1) because he has "learned the hard way and not the easy way of being told" about the limitations the Department imposes on pursuit driving. When he was asked by his attorney, "Would you agree that in some instances your pursuits were a bit overzealous?" he answered, "I do. I admit to some mistakes that were made. I also admit to myself that situations like this is not just my fault. I mean it's unfortunate (that) police officers (who) work for the city have a lot of responsibilities; more than any other job in the country besides LAPD; a lot of things we have to do." He further testified that, "Sometimes I think I was taken advantage of, but it's just my job and it's unfortunate."

With regard to the charges under Disciplinary Case No. 83902/08, the Respondent testified, "I am not a racist person whatsoever" and that he assists his neighbor who is black and he once purchased a two-child stroller for a black woman who lived on his foot post and could not afford a stroller. The Respondent stated that police officers constantly joke with each other regarding race and that such joking "happens in every workplace."

The Respondent recalled watching an animal show with a black officer who remarked, "We can call you guys," meaning white police officers, "animal crackers now." The Respondent retorted, "We don't hang from the trees like the monkeys are doing" in the TV show. The Respondent asserted that neither of them took offense in exchanging these remarks. The Respondent repeated the "monkey" remark he had made to the black officer to Mahabir. The Respondent acknowledged that he should not have repeated his "monkey" remark. Mahabir later told him that he had not wanted to file an

EEO complaint against him. The Respondent stated that he still socializes with Mahabir and his family including Mahabir's wife who is black.

He had no specific recollection that on January 15, 2007, he said to Oviedo, "Today is a dark day." However, if he did say this, he had no intent to insult black people. He, nonetheless, personally apologized to Oviedo, as well as to Mahabir.

With regard to Disciplinary Case No. 84735/08, the Respondent testified that when he removed [REDACTED] from the courtroom on February 29, 2008, he did not yet have a "commit" card for [REDACTED] because the judge, who was annoyed that [REDACTED] was "acting up" in front of him, had ordered the Respondent to "get this guy out of the courtroom" immediately. The Respondent testified that when he brought [REDACTED] into the MCS holding area, he explained to Williamson why he did not yet have a "commit" card for [REDACTED]. The Respondent asserted that after Williamson refused to give him the keys for the holding cell, he went over to the desk where he knew they were stored. As he reached into the desk drawer and touched the keys, Williamson snatched the keys away from him. The Respondent testified that Williamson told him, "I'm not going to give you the fucking keys." He told her, "This is not a joke. Give me the fucking keys." The Respondent testified that he only said "give me the fucking keys" because Williamson had told him that she was not going to give him "the fucking keys." [REDACTED] remained just outside the cell and did not try to walk away. He denied he had forcefully shoved [REDACTED] into the holding cell.

The Respondent testified that when he removed [REDACTED] from the courtroom on April 11, 2008, he escorted [REDACTED] directly from the courtroom to the Department of Correction's holding cell area because the judge had signed a medical

"commit" card for her after the judge had ordered that [REDACTED] undergo a medical examination. [REDACTED], who was three months pregnant, was upset at being committed because she wanted to go to the hospital. The Respondent left [REDACTED] in the custody of the Department of Correction. He denied that he had forcefully shoved her into a wall causing her to sustain a laceration or swelling to her lip, or that he had grabbed her by the neck to keep her from falling and had accidentally struck her in the right eye causing her eye to swell.

On cross-examination, the Respondent acknowledged that he told Mahabir, "All blacks should be hung from trees like monkeys," and that he repeated this comment to Mahabir the next day. The Respondent also recalled that while he and Oviedo were on duty inside a courtroom, he told Oviedo, "Today is a dark day." However, the Respondent claimed that he was referring to the weather outside, not to the fact that it was the holiday designated for Dr. King. The Respondent recalled that when he reached into the drawer where Williamson stored the holding cell keys, he touched the keys but he never got the keys into his hand because Williamson grabbed them.

FINDINGS & ANALYSIS

Disciplinary Case No. 83260/07

The Respondent admitted that during four separate tours of duty (on April 18, July 7, July 8 and July 9, 2006), he engaged in a vehicle pursuit of a motorcyclist without notifying the radio dispatcher at the start of the pursuit, as he was required to do. He also admitted that on all four occasions he failed to terminate his pursuit of the motorcyclist even though the risk to other members of the service (MOS) and the public outweighed

the danger to the community if the motorcyclist was not immediately apprehended because he had initiated his pursuit of the motorcyclist solely because the motorcyclist had committed a traffic violation.

Specifically, on April 18, 2006, he pursued a speeding motorcyclist by driving on a sidewalk for about one block; on July 7, 2006, he pursued a speeding motorcyclist by driving through five steady red lights and two stop signs; and on July 8, 2006, while a civilian was a passenger in his RMP, he pursued a speeding motorcyclist by driving through two steady red lights for five blocks down the wrong way on a one-way street. On July 9, 2006, he not only failed to terminate his pursuit of a motorcyclist even though the risk to other MOS and the public outweighed the danger to the community if the motorcyclist was not immediately apprehended because the motorcyclist had only committed a traffic violation, he also improperly operated his RMP outside of his assigned command.

The dashboard camera recording in evidence (DX 1) depicts the Respondent driving on a sidewalk on April 18, 2006; driving through five steady red lights and two stop signs on July 7, 2006; and driving through two steady red lights as he drove the wrong way on a one-way street for five blocks on July 8, 2006.

Detective McCarthy offered expert testimony that during all three of the pursuits depicted on the video recording the Respondent was driving, in 30 m.p.h. speed limit areas, at an excessively high rate of speed. McCarthy determined that on April 18, 2006, the Respondent was driving at a rate of speed of over 49 m.p.h.; that on July 7, 2006, the Respondent was driving over 66 m.p.h.; and that on July, 8, 2006, the Respondent was driving over 50 m.p.h. When the video recording is viewed in conjunction with

Detective McCarthy's expert testimony, the Respondent's driving can only be characterized as outrageous.

The Respondent, having pleaded Guilty as charged, is found Guilty as charged.

Disciplinary Case No. 83902/08

Specification Nos. 1 and 2

It is charged that on December 30, 2006, the Respondent told Police Officer Andy Mahabir, "All blacks should be hung from trees like monkeys," and that he repeated this remark to Mahabir the next day.

I find the Respondent guilty because I credit Mahabir's testimony that on December 30, 2006, and again on December 31, 2006, the Respondent told him, "Black people should be hung from trees like monkeys." Under cross-examination, the Respondent acknowledged that that on December 30, 2006, he had stated to Mahabir, "All blacks should be hung from trees like monkeys," and that he uttered this same comment to Mahabir the next day. I further credit Mahabir's claim that he was so offended by the Respondent's remarks, because his wife is African-American and his son is "half black," that he went to a supervisor and requested a change of assignment so that he would not have to hear the Respondent make any more comments of this nature.

The Respondent is found Guilty.

Specification No. 3

It is charged that the Respondent while on duty, on January 15, 2007, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that

he stated to Police Officer Robert Oviedo, "Today is dark day (*sic*)" in reference to the holiday marking Dr. Martin Luther King Jr.'s birthday.

The Respondent testified on direct examination that he had no recollection that he had made such a comment to Oviedo. However, on cross-examination, the Respondent corroborated Oviedo's testimony that while they were on duty on January 15, 2007, he told Oviedo, "Today is a dark day." However, the Respondent claimed that he was referring to the weather outside, not to the holiday honoring Dr. King. I reject the Respondent's claim because I credit Oviedo's testimony that he had remarked to the Respondent, "Today is MLK day," just before the Respondent told him, "Today's going to be a dark day." Also, I reject the Respondent's implied claim that it was merely a coincidence that he made his "Today is a dark day" comment on the day set aside to honor Dr. King since he made this comment to Oviedo only 15 days after he told Mahabir, "Black people should be hung from trees like monkeys."

The Respondent is found Guilty.

Disciplinary Case No. 84735/08

Specification Nos. 1 through 5

It is charged that the Respondent, while on duty on February 29, 2008, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, in that he said grabbed Police Attendant Cheryl Williamson's hand and clothing and demanded that she give him keys as he attempted to forcefully remove keys from her hand; that he engaged in a verbal dispute with Williamson during which he used abusive language towards her; that he failed to properly handcuff [REDACTED], a prisoner, as he transported him from a courtroom to a holding cell; that he failed to properly safeguard

[REDACTED] for several minutes resulting in [REDACTED] attempting to walk away from the Respondent; and that he forcefully shoved [REDACTED] into a holding cell.

I find the Respondent Not Guilty of Specification No. 1 because Williamson's testimony that she was holding the keys in her left hand, that the Respondent grabbed her left wrist, and that he attempted to forcefully remove the keys from her hand, was directly contradicted by another witness called by the Department, Police Officer Ivan Rivera. Rivera testified that the keys were inside a desk drawer, not in Williamson's hand, that the Respondent grabbed the keys, and that Williamson tried to get the keys back by grabbing them from the Respondent. Rivera also contradicted Williamson's testimony that she never uttered the phrase "the fucking keys" and that she used no profanity. Rivera testified that he heard Williamson say, "You give me the fucking keys." In her summation, the ADA argued that both Williamson and Rivera had offered credible testimony, ignoring the inconsistencies in their versions of this event.

I find the Respondent Guilty of Specification No. 2 because he admitted that he engaged in a verbal dispute with Williamson during which he directed abusive language towards her in that he used the word "fucking" in addressing her. The Respondent admitted that after Williamson told him, "I'm not going to give you the fucking keys," he told her, "Give me the fucking keys." Although the Respondent asserted that he only used the word "fucking" because Williamson had used the word "fucking" in addressing him, even if I credited his claim, her use of profanity did not give him license to respond in kind. Thus, his explanation for why he used the word "fucking" in addressing another member of the service would, at most, only serve to mitigate, not to excuse or justify, his own misconduct of using profanity in addressing another member.

It is recommended that Specification No. 3, which charges the Respondent with having failed to handcuff [REDACTED] be dismissed because the Respondent offered unrefuted testimony that the judge ordered that [REDACTED] who was acting up in front of the judge, be immediately removed from the courtroom and because Lieutenant Pitt supported the Respondent's claim that MCS prisoners being transported are not routinely handcuffed if the prisoner complies with the officer's directions.

I find the Respondent Not Guilty of Specification No. 4 because the Department did not prove that [REDACTED] attempted to walk away from the Respondent. Department witness Rivera testified that he stood between the Respondent and his prisoner and that [REDACTED] remained seated in a chair and never even stood up, much less attempted to walk away.

Finally, I find the Respondent Not Guilty of Specification No. 5. Department witness Rivera's testimony that the Respondent grabbed his prisoner by his upper arms and put him into the cell insufficiently establishes that the Respondent "forcefully shoved" [REDACTED] into the holding cell.

In summary, the Respondent is found Guilty of Specification No. 2; the Respondent is found Not Guilty of Specification Nos. 1, 4 and 5; and it is recommended that Specification No. 3 be Dismissed.

Specification Nos. 6 through 9

It is charged that the Respondent, while on duty at "Manhattan Court Section" (MCS) on April 11, 2008, engaged in conduct prejudicial to the good order efficiency or discipline of the Department in that while transporting [REDACTED], a prisoner in his

custody, from a courtroom to "a holding cell at the above location" he failed to properly handcuff Headley; he forcefully shoved her into a wall causing her to sustain a laceration and swelling to her lip; and he grabbed her by the neck to keep her from falling and accidentally struck her in the right eye causing her eye to swell.

I would initially note that the charge, as written, contains a factual inaccuracy. Although the phrase "a holding cell at the above location" clearly refers to a Police Department holding cell within MCS (the only location cited in the charge), the ADA conceded that the Respondent had moved [REDACTED] directly from a courtroom to a non-MCS holding cell which was under the control of the Department of Correction.

The only evidence presented by the ADA to prove these charges was the hearsay statement given by Headley and the photos that were taken of [REDACTED] depicting facial swelling (DX 2).

The believability of the hearsay statement given by [REDACTED] must be examined in light of Sergeant Lagoa's testimony that [REDACTED] appeared to be under the influence of a non-alcoholic substance and the fact that [REDACTED] had been arrested 35 times. Since [REDACTED] did not testify at this trial, Respondent's counsel did not have the opportunity to question her about what substance she had ingested and how it may have affected her perception, nor did he have the opportunity to probe as to a possible anti-police bias.

Also, since no corporeal or photographic identification procedure was ever conducted to ascertain if [REDACTED] could identify the Respondent as the person who shoved her into a wall and accidentally struck her in the eye, the Department's case that the Respondent caused the injuries depicted in the photos of [REDACTED] hinges on an exclusive opportunity theory. Since the photos of [REDACTED]'s injuries are dated April 12,

2008, by which date [REDACTED] had been under the control of the Department of Correction for some time, the photos do not establish that the injuries depicted could only have been caused by the Respondent.

[REDACTED] described the person who she alleged had shoved her into a wall, grabbed her by the neck to keep her from falling and accidentally struck her in the right eye, as a male officer who was wearing a blue shirt. However, even if I credited [REDACTED]'s hearsay claim that officer who shoved her was wearing a blue shirt, this does not establish that he shoved her since the Respondent's assertion that supervisory court officers also wear blue shirts was not disputed by the ADA.

The Respondent is found Not Guilty of Specification Nos. 6, 8 and 9. The ADA moved to Dismiss Specification No. 7 because that charge is redundant in that it alleges the same misconduct that is charged under Specification No. 6.

PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). The Respondent was appointed to the Department on July 1, 2002. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Under Disciplinary Case No. 84735/08, the Respondent has been found guilty of engaging in a verbal dispute with another MOS in which he directed abusive language toward the MOS by using the word "fucking."

Under Disciplinary Case No. 83902/08, the Respondent has been found Guilty of

stating to Mahabir, a fellow officer, "Black people should be hung from trees like monkeys," on two consecutive days; and stating to Oviedo, another fellow officer, on the holiday marking Dr. Martin Luther King, Jr.'s birthday that the day was "a dark day." The Respondent asserted that if he made the remarks his fellow officers attributed to him, he must have been joking on all three occasions and that he later apologized to the officers. However, even if the Respondent was joking, the racial insensitivity he displayed in making these remarks reflects poorly on his fitness to serve as a police officer. Also, the record shows that the Respondent's remarks adversely affected the Department in that Mahabir was so offended by the Respondent's twice stated "Black people should be hung from trees like monkeys" remark that he went to a supervisor and requested a change of assignment so that he would not have to listen to any more of the Respondent's offensive racial comments.

Under Disciplinary Case No. 83260/07, the Respondent has admitted that during four separate tours of duty he engaged in a vehicle pursuit of a motorcyclist without notifying the radio dispatcher at the start of the pursuit, as he was required to do. Even more seriously, he also admitted that on all four occasions he failed to terminate his pursuit of the motorcyclist even though the risk to other MOS and the public outweighed the danger to the community if the motorcyclist was not immediately apprehended because he had initiated his pursuit of the motorcyclist solely because the motorcyclist had committed a traffic violation.

That the Respondent, on four different tours of duty, drove his RMP in a reckless, potentially life-threatening manner in order to "get numbers" for "Traffic Stat" by catching motorcyclists who had committed traffic violations, is incomprehensible and

demonstrates a lack of maturity and a lack of judgment. His behavior is all the more unfathomable in light of his testimony that when he was just a boy his mother was “hit head on by a DWI driver” and that as a result she was “in a coma for about a month and as of today she acts like she’s five years old.” Thus, it is clear that the Respondent was fully aware of the damage that a moving vehicle can cause to a person. That he, nonetheless, drove his RMP in the reckless manner depicted in the video recording of three of his pursuits (DX 1), and at the speeds described by Detective McCarthy, demonstrates a lack of concern for the welfare of others.

Yet the Respondent did not testify at this trial that he was embarrassed to see himself driving his RMP in the reckless manner depicted in the video recording, he expressed no remorse that his driving had endangered others and he refused to accept full personal responsibility for his reckless driving. When he was asked if these motorcycle pursuits had been “overzealous,” he answered, “I admit to some mistakes that were made” but he asserted that “situations like this is not just my fault” and that “sometimes I think I was taken advantage of, but it’s just my job and it’s unfortunate.”

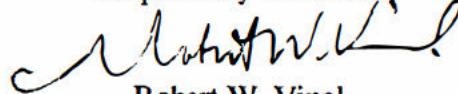
Thus, even though the Respondent submitted a number of awards and character letters, and even though his performance evaluations for 2006, 2007 and 2008 show that he has not had any “Vehicular Offenses/Accidents” (RX E), because he has refused to accept full responsibility for his reckless driving, his assertion that he has learned from his mistakes provides insufficient assurance to the Department that he will never again drive an RMP in such an outrageous manner.

The Assistant Department Advocate recommended that the Respondent be dismissed from the Department. When the Respondent’s inappropriate racial remarks,

which standing alone could merit dismissal, are combined with his multiple acts of reckless driving, immediate dismissal would appear to be the appropriate penalty.

Therefore, I recommend that the Respondent be DISMISSED from the New York City Police Department.

Respectfully submitted,


Robert W. Vinal
Assistant Deputy Commissioner - Trials



POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner - Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER CHRISTOPHER LEE
TAX REGISTRY NO. 930549
DISCIPLINARY CASE NOS. 83260/07, 83902/08 & 84735/08

The Respondent received an overall rating of 4.0 on his 2008 annual performance evaluation, 4.0 on his 2007 annual evaluation and 3.0 on his 2006 evaluation. He has been awarded four Excellent Police Duty medals. [REDACTED]
[REDACTED] He has no prior formal disciplinary record.

In April, 2008, he was placed in Discipline Monitoring Level II based on his overall record.

For your consideration.



Robert W. Vinal
Assistant Deputy Commissioner – Trials